IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO. 163 OF 2006

IMC Ltd ...Petitioners
vs.
Alfa Textiles ...Respondents

Mr. R. Narichania iby. Mulla and Mulla
for the petitioner.
Mr. S.P. Bharti for the respondent.

CORAM: S.J. VAZIFDAR, J.

DATE : 20TH JUNE, 2006.

P.C. :

1. This is a petition under Section 34 of the Arbitration and Conciliation Act, 1996.

2. The respondent had also challenged the award by filing Arbitration Petition No. 168 of 2006. That petition has been dismissed by me by passing a separate order.

3. The arbitrator has granted only a part of the respondents claim. This petition challenges the award in respect thereof.

4. The disputes between the parties which were referred to arbitration arose in respect of a storage agreement dated 9.10.2000. In the agreement the petitioner was to store the furnace oil of the respondent in Tank No. 111. It appears that at the time when the tank was to be made available the entire capacity of Tank No.111 was not available due to furnace oil of another party, Sreenath, also stored therein.

5. It is true that admittedly the balance quantity of the respondents furnace oil was stored in Tank No.116. It is also true that admittedly no payment in respect thereof was made. Mr. Narichania's contention that it was unfair in these circumstances for the arbitrator to have granted any reliefs to the respondent for under utilisation of Tank No.111 is not without force.

6. However the view taken by the

arbitrator is that the respondent was willing to pay the storage charges in respect of Tank No.116. In these circumstances the arbitrator did not think it fit to permit the petitioner to retain the entire storage charges in respect of Tank No.111 which at one stage included the utilisation of Tank No.111 by the said Sreenath

7. Despite the fact that I do not consider Mr. Narichania's contention unfounded I am not inclined to interfere with this award. The arbitrator has taken a particular view of the matter and merely because my view is to the contrary it does not call for interference with the award. This is for the reason I do not consider the arbitrator's view totally absurd or unsustainable.

. The petition is accordingly dismissed.

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